

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**JESUS ALCALA-MENDOZA,**

**Defendant.**

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**CRIMINAL NO. 6:10-118-9**

**ORDER**

Pending before the Court is Defendant Jesus Alcala-Mendoza's ("Defendant") Motion Under FED. R. CRIM. PRO. 3582(c)(2) (Dkt. No. 332), whereby Defendant complains that the Bureau of Prisons' (BOP) will not give him credit toward his sentence in this case based on time served in Case No. 7:08-cr-96301, as set forth in the Court's Judgment (Dkt. No. 286 at 2).

Defendant does not challenge the length of his sentence as imposed by the Court, but instead challenges the BOP's determination of its duration. As such, the Court will construe Defendant's motion as one pursuant to 28 U.S.C. § 2241. *See Pack v. Yusuff*, 218 F.3d 448, 451 (5th Cir. 2000) (a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is the appropriate vehicle in which "a sentenced prisoner attacks the manner in which a sentence is carried out or the prison authorities' determination of its duration") (citations omitted).


A challenge to the BOP's administrative decision pursuant to 28 U.S.C. § 2241 must be filed in the district where Defendant is incarcerated. *See Pack*, 218 F.3d at 451. The return address on Defendant's motion reflects that he is incarcerated at the United States Penitentiary in Atlanta, Georgia, which is located within the Northern District of Georgia. Thus, assuming Defendant remains incarcerated in Atlanta, he should file any § 2241 petition in the Atlanta

Division of the Northern District of Georgia, after first exhausting his administrative remedies with the BOP. *See United States v. Wilson*, 503 U.S. 329, 335 (1992).

Because the Court is without jurisdiction to entertain Defendant's motion, the motion (Dkt. No. 332) is **DENIED** without prejudice. This Order does not adjudicate the merits of Defendant's complaint.

It is so **ORDERED**.

**SIGNED** this 17th day of April, 2013.

  
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JOHN D. RAINEY  
SENIOR U.S. DISTRICT JUDGE